

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

IN RE: SUBPOENA TO JOSHUA TAYLOR )  
)  
)  
)  
In Connection with Case No. )  
1:20-cv-02977 (Northern )  
District of Illinois): )  
)  
ALBERTO OCHOA, )  
Plaintiff )  
v. )  
)  
THE CITY OF CHICAGO, et al., )  
Defendants. )

**PETITIONERS’/DEFENDANT OFFICERS’  
MOTION TO COMPEL NON-PARTY  
WITNESS JOSHUA TAYLOR’S COMPLIANCE  
WITH FED. R. CIV. PRO. 45 SUBPOENA FOR DEPOSITION**

NOW COME Petitioners/Defendant Officers, JOSE LOPEZ, EUGENE SCHLEDER, and ADRIAN GARCIA (“Defendant Officers”), by and through their counsel, Emily E. Schnidt of BORKAN & SCAHILL, LTD., and pursuant to Fed. R. Civ. Pro. 45 move this Court for an order compelling third-third party witness to comply with Defendant Officers’ deposition subpoena. In support thereof, Defendant Officers state as follows:

1. This is a civil rights case wherein Plaintiff, Alberto Ochoa, alleges Defendant Officers coerced him to confess, fabricated evidence against him, suppressed exculpatory evidence, and detained and prosecuted without probable cause, among other claims.

2. Plaintiff named Joshua Taylor as a Fed. R. Evid. 404(b) witness who will purportedly testify regarding alleged prior misconduct by Defendant Detective Jose Lopez. *See* Ex. A (Plaintiff's 404(b) Witness List); Ex. B (Pl's Initial 26(a) Disclosures).

3. On November 22, 2022, Defendant Officers issued a subpoena pursuant to Fed. R. Civ. P. 45 for Joshua Taylor's video deposition to proceed on January 27, 2023. *See* Ex. C (Subpoena for Deposition of Joshua Taylor).

4. The deposition subpoena provided defense counsel's name, address, email address, and phone number in the event Joshua Taylor needed to contact defense counsel regarding the deposition or his availability. Counsel for Defendant Officers also attempted to contact Joshua Taylor via his cellphone on numerous occasions to confirm his deposition.

5. On January 26, 2023, Joshua Taylor returned counsel for Defendant Officers' calls and requested his deposition be rescheduled. By agreement, the

parties and Joshua Taylor rescheduled Joshua Taylor's deposition for April 13, 2023 at 10:00 a.m. CST.

6. On February 10, 2023, Defendant Officers issued a subpoena pursuant to Fed. R. Civ. P. 45 for Joshua Taylor's video deposition to proceed on April 13, 2023, at an office space in Dalton, Georgia near where Joshua Taylor resides. *See* Ex. D (Amended Subpoena for Deposition of Joshua Taylor).

7. On April 1, 2023, the deposition subpoena was personally served on Joshua Taylor at his place of work, as the home address Joshua Taylor previously provided was vacant. *See* Ex. E (Affidavit of Service – Joshua Taylor).

8. On April 13, 2023 at 10:00 a.m., the parties to the litigation appeared for Joshua Taylor's deposition. The stenographer and videographer also appeared, at Defendant Officers' expense, at the office space in Dalton, Georgia designated for Joshua Taylor's deposition. The deposition was scheduled to begin at 11:00 a.m. EST, 10:00 a.m. CST. All parties waited until 11:23 a.m. EST, 10:23 a.m. CST before determining Joshua Taylor would not appear for his deposition, making a record, and terminating the deposition. *See* Ex. F (April 13, 2023 Transcript).

9. After Joshua Taylor failed to appear for his deposition, Counsel for Defendant Officers called Joshua Taylor via his cellphone and learned his cellphone number had been disconnected.

10. On May 15, 2023, defense counsel sent emails to Joshua Taylor via email addresses provided by an investigator and have not received a response as of the date of this instant filing.

11. Joshua Taylor has not complied with lawful subpoenas issued by Defendant Officers and served on him, despite multiple attempts to facilitate such compliance as more fully set forth below.

12. The Court “may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.” Fed. R. Civ. P. 45(g); *In Re Early*, 2021 WL 2636020, at \*2 (N.D. Ga. Apr. 20, 2021)(recognizing the court with jurisdiction to enforce compliance with a subpoena is the court for the district where compliance is required). When a party properly serves a non-party with a subpoena for a deposition, “the non-party is required to either object to the subpoena or attend the deposition.” *Sanger v. Ahn*, 2019 WL 12291345, at \*7 (N.D. Ga. Dec. 12, 2019). If a third-party does not object or attend the deposition, then the non-party may be held in contempt. *Id.*

13. Joshua Taylor has failed to comply with Defendant Officers' lawfully issued subpoenas.

14. Defendant Officers therefore request this Court enter an order compelling Joshua Taylor to comply with Defendant Officers' subpoena and appear for his deposition, and for any additional relief this Court deems just and reasonable in furthering these ends.

WHEREFORE, Defendant Officers pray this Court enter an order compelling Joshua Taylor to comply with Defendant Officers' subpoena and sit for his deposition, and for any additional relief this Court deems just.

Respectfully submitted,

By: /s/ Emily E. Schnidt  
Emily E. Schnidt

*Counsel for Petitioners/Defendant Officers*

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**CERTIFICATE OF FONT COMPLIANCE**

Counsel for Plaintiff hereby certifies that the forgoing has been prepared with one of the font and point selections approved by the Court in L.R. 5.1(C): Times New Roman (14 point).

This 7<sup>th</sup> day of June, 2023.

*/S/ Emily E. Schnidt*

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 7<sup>th</sup> day of June, 2023, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will automatically send notification of such filing to Counsel of Record.

N/A

I further certify that on this 7<sup>th</sup> day of June, 2023 I served a copy of the foregoing document on the following parties or counsel of record via email:

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